

EQUITABLE RELIEF GRANTED BY THE
SECRETARY OF VETERANS AFFAIRS
IN CALENDAR YEAR 2004

CASE #1

In May 2003, the veteran filed a request for automobile adaptive equipment although he had already received the one-time-only automobile allowance in 2001. The VA Regional Office (VARO) told the veteran that he was eligible for an automobile allowance even though he indicated on the form that he had already received an automobile allowance. In reliance on this determination, the veteran purchased an automobile and submitted the Certificate of Eligibility for reimbursement in September 2003. A handwritten note dated December 4, 2003, was attached to the veteran's letter instructing Finance Service to pay the automobile allowance, although there is no indication that the veteran was ever paid. At no point during this process did VA inform the veteran that he was ineligible to receive this one-time benefit a second time. In April 2004, the VARO requested equitable relief for the veteran. The Secretary granted equitable relief in the amount of \$9,000 under the authority of 38 U.S.C. § 503(b) for a second allowance since the veteran incurred a financial obligation in reliance on the VARO's erroneous determination.

CASE #2

The veteran participated in the Veterans' Educational Assistance Program (VEAP) while in the service. He pursued training in several courses from October 28, 2000, through July 27, 2001. When considering whether to convert from the VEAP to the Montgomery GI Bill (MGIB) benefits program, the veteran was notified that he might also apply for Tuition Assistant Top-Up (TATU) benefits, authorized by Public Law 106-398 (Enacted October 30, 2000). There was little information available on TATU benefits at this time because the program was new. The veteran asked for more information on TATU from the VA's Muskogee Regional Processing Office (RPO). The RPO informed him that TATU benefits would be payable for any courses taken after October 30, 2000, the enactment date of TATU. Relying on this information, on October 19, 2001, the veteran paid the \$2,700 required under MGIB to convert to that program. In fact, the requirements of the TATU statute prevented him from receiving benefits under the program for courses taken before he converted to MGIB. The veteran suffered a loss in reliance on VA's erroneous advice. The Secretary granted equitable relief under 38 U.S.C. § 503(b) in the amount of \$1,327.50 which represents payment the veteran made for courses between October 2000 and October 2001.

CASE #3

The veteran served in the Army from 1972 to 1992. On retirement he was eligible for Vietnam-Era GI Bill (Chapter 34) benefits and Montgomery GI Bill benefits (Chapter 30). He was also 20 percent disabled and became eligible for Vocational Rehabilitation (Chapter 31) program benefits. Because he was eligible for two or more VA programs, he was entitled to an aggregate of 48 months of benefit entitlement. The veteran elected to use Chapter 30 benefits from January 1993 through May 1994, using 17 months, 12 days of entitlement. The computer-generated letter he received indicated he had 18 months, 18 days of remaining entitlement. The veteran then elected to use Chapter 31 benefits from January 1995 through July 1997, using an additional 29 months, 3 days. At this point his remaining entitlement was 1 month, 15 days. The veteran elected to use Chapter 30 benefits in August 1997. Although there was only 1 month and 15 days of benefits left to the veteran, VA erroneously authorized the period from August 1997 through December 1998. This error was discovered in August 1998 and his benefits were terminated. The veteran wrote at least three letters seeking clarification of his benefit entitlement, none of which appear to have been answered. By the time the veteran received an explanation in October 1998, he was no longer eligible to receive a refund of tuition for the fall 1998 term. The Secretary granted equitable relief under 38 U.S.C. § 503(b) in the amount of \$2,238.40, which represented the tuition, book and mileage expense of the veteran from August 1998 through December 1998.

CASE #4

The veteran served in the Air Force from June 1966 to March 1991, and was qualified for Vietnam Era GI Bill and Montgomery GI Bill (MGIB) benefits. MGIB benefits are limited to 36 months of entitlement that must be used within ten years from separation from the service. The veteran elected to use his education benefits on flight training for which he received a Certificate of Eligibility on December 14, 2000, with a delimiting date of April 1, 2001. On March 8, 2001, the veteran applied for an extension of delimiting date to his MGIB benefits since he had been unable to use them due to disability. VA granted an extension of 7 months, 28 days on September 27, 2001, however, VA neglected to inform the veteran that he could elect the date the additional period would begin. Instead VA added the extension to the veteran's original delimiting date. Eventually the veteran was informed that he could elect a start date, however, VA did not process the election of the veteran in a timely fashion. The veteran enrolled in classes beginning March 2002. Certificates of enrollment were submitted to VA for February and April. VA issued a Certificate of Eligibility on July 6, 2002, informing the veteran that his new delimiting date was August 26, 2002. Payments to the veteran of MGIB benefits from February through July were delayed causing the veteran to reduce his number of flight training hours to the minimum because he did not have the means to pay for them. On August 26, 2002, the veteran requested and was granted an additional delimiting date extension because of problems with payments and the processing of his election

of the new start date. The veteran requested yet another extension on March 10, 2003, which was denied on April 15, 2003. The Secretary granted equitable relief under 38 U.S.C. § 503(a) of an extension of MGIB benefits for 3 months, 25 days, the amount of time the veteran needs to complete his flight training. This extension is granted because of the repeated problems the veteran encountered in getting information, payments, and administrative action from VA.

CASE #5

The veteran served in the Army from September 1974, to August 1976, and from March 1980, to June 1995. He was eligible for education benefits under the Vietnam-Era GI Bill (Chapter 34) and became eligible to convert to Montgomery GI Bill (MGIB) benefits (Chapter 30). In May 1995, the veteran applied for MGIB benefits and was issued a Certificate of Eligibility incorrectly advising him that his delimiting date was July 1, 2005. Because the veteran had a break in service, 38 U.S.C. § 3031(e)(1) requires that his 10 year eligibility period be reduced by the amount of any break that falls between January 1, 1977 and June 30, 1985. In July 1995, VA notified the veteran that his correct delimiting date was April 28, 2002, due to his break in service. In March 2001, the veteran changed schools and requested the amount of time still remaining for use under his MGIB entitlement. VA incorrectly advised the veteran that his delimiting date was July 1, 2005. Enrollment certification for January 2003 was received on January 14, 2003. VA reviewed the file and notified the veteran that his delimiting date had expired as of April 28, 2002. The Secretary authorized equitable relief under 38 U.S.C. § 503(b) in the amount of \$1,086.53, which represents the veteran's MGIB benefits for the period January 10, 2003, to February 8, 2003. Equitable relief was not granted to cover the two later periods of classes since the veteran could have withdrawn from these without penalty at the time he was notified of the correct delimiting date.

CASE #6

The veteran served in the Army from July 1969 to December 1975, and from October 1978 to December 1991. He was eligible for education benefits under the Vietnam-Era GI Bill (Chapter 34) and became eligible to convert to Montgomery GI Bill (MGIB) benefits (Chapter 30). In May 1999, the veteran applied for MGIB benefits and was issued a Certificate of Eligibility incorrectly advising him that his delimiting date was January 1, 2002. Because the veteran had a break in service, 38 U.S.C. § 3031(e)(1) requires that his 10 year eligibility period be reduced by the amount of any break that falls between January 1, 1977 and June 30, 1985. In May 1999, VA notified the veteran that his correct delimiting date was March 16, 2000, due to his break in service. Over the next year the veteran attended classes and submitted enrollment certifications for the summer and fall terms of 1999, and for spring and summer terms of 2000. VA paid benefits for the two 1999 terms, though its letters showed the incorrect delimiting date. When VA paid benefits for the spring 2000 term, it again notified

the veteran of the incorrect delimiting date. On April 20, 2000, VA notified the veteran of the correct delimiting date and that \$581.85 had been overpaid to him for spring term. The overpayment was determined to be administrative error and the veteran was not required to repay this amount. Certification was received and processed by VA for the summer 2000 term. On June 13, 2000, the veteran was awarded benefits for the summer 2000 session and received another notification of the incorrect delimiting date. In August 2000 the veteran used an automated VA system to verify his delimiting date and was given the incorrect date. The veteran received notification of administrative relief for the spring 2000 term on May 1, 2001, and was again given the incorrect delimiting date on the letter. The Secretary granted the veteran additional equitable relief under 38 U.S.C. § 503(b) in the amount of \$1,960.08, coverage for benefits for summer and fall 2000 terms. The veteran suffered this loss as a result of his reliance on the repeated misinformation supplied by VA.

CASE #7

The veteran served in the Air Force from 1976 to 1994. On retirement he was eligible for Vietnam-Era GI Bill (Chapter 34) benefits and for conversion to Montgomery GI Bill benefits (Chapter 30). He was also 20 percent disabled and became eligible for Vocational Rehabilitation (Chapter 31) program benefits. Because he was eligible for two or more VA programs, he was entitled to an aggregate of 48 months of benefit entitlement. The veteran elected to use Chapter 31 benefits from 1995 to August 2002, using 48 months of entitlement. The veteran applied for Chapter 30 benefits in July 2003. On August 1, 2003, the Buffalo Regional Processing Office erroneously issued him a Certificate of Eligibility indicating that he had over 13 months of remaining eligibility. Based on the Certification, he enrolled in school. VA notified the veteran on September 17, 2003, of the fact that he had used his eligibility under Chapter 31 and no Chapter 30 eligibility period remained. The veteran could have withdrawn from classes at that time and received 50% of his tuition back from the educational institution. The Secretary granted equitable relief under 38 U.S.C. § 503(b) of \$1,606.50, 50% of the veteran's fall 2003 tuition payment.

CASE #8

The veteran served in the Army from 1968 to 1973, from July 1981 to January 1982, and from January 1983, to July 1994. He was eligible for educational benefits under the Montgomery GI Bill (MGIB). In November 1991, the veteran applied for MGIB benefits while on active duty. VA issued an approval letter informing him that he would receive benefits for 10 years beyond the date of his discharge from the Army with no mention of necessary adjustments to this date as a result of breaks in service. Because the veteran had two breaks in service, 38 U.S.C. § 3031(e)(1) requires that his 10 year eligibility period be reduced by the amount of the breaks that fall between January 1, 1977 and June 30, 1985. The veteran separated from the service on July 31, 1994. On January 13, 1997,

VA notified the veteran that his correct delimiting date was January 25, 1999, due to the breaks in service. The veteran continued in school through 1997 and received several computer-generated letters from VA with the incorrect delimiting date of August 1, 2004. The veteran wrote to VA in February 1998, to determine the length of entitlement still remaining for his education. VA responded on February 26, 1998, that he had 17 months, 8 days entitlements, placing the delimiting date at August 1, 2004. The veteran relied on this VA statement and enrolled in courses for the spring 2002 term. When VA received the enrollment certificate, it replied that the veteran had exhausted his entitlement as of January 1998. VA notified the veteran on February 7, 2002, that he was not eligible for benefits for the spring term. The veteran would have had to drop classes by January 25th to receive a refund of his tuition. The Secretary granted equitable relief under 38 U.S.C. § 503(b) in the amount of \$394.50, the amount of tuition the veteran paid for the spring term.

CASE #9

The veteran served in the Army from February 1986, to September 1990, and from March 1991, to February 1993. She was eligible for education benefits under the Montgomery GI Bill (MGIB) benefits (Chapter 30) with a delimiting date of February 2, 2003. The veteran applied for MGIB benefits in 1991 and was issued a Certificate of Eligibility incorrectly advising her that her delimiting date was September 19, 2000, a date computed only on her first period of service. In August 1993, VA corrected the delimiting date to February 2, 2003 when VA realized that the veteran had a second period of military service. VA included the corrected delimiting date in awards for 1993 and 1994. The veteran submitted a form indicating she was changing schools. VA issued award certification for enrollment for periods in 1998 and 1999 reflecting a changed delimiting date of November 7, 2004. This error appears to have been caused by the entry of the veteran into the Army Reserves between her two periods of active duty service. The Department of Defense computer automatically generated a code indicating that the veteran's eligibility for MGIB was as a Category IC (4 years of Selected Reserves followed by 2 years of active service) that carries a 10-year delimiting period beginning on the date the individual completes the Selected Reserve obligation. The November 7, 2004, delimiting date corresponds to the date the veteran entered the Selected Reserve, rather than the date she completed the service. Since the veteran did not have a 4-year Selected Reserve service period, she was not eligible for the additional time for use of the MGIB benefits. The veteran called the interactive voice response system in December 2002 and January 2003 to clarify the change to the delimiting date. She was informed that the correct date was November 7, 2004. The veteran enrolled in a training program in January 2003, but did not file for benefits until January 2004, as the program in which she was enrolled was not approved by the State Approving Agency. This approval was granted in January 2004 and the veteran filed with VA for benefits. VA contacted the veteran on February 5, 2004 and told that her correct delimiting date was February 2, 2003. At that time the veteran had paid

for and completed the training program. The Secretary granted equitable relief under 38 U.S.C. § 503(b) in the amount of \$6,420, the amount the veteran paid for the completed training.

CASE #10

The veteran served in the Navy from June 1974 to October 1981, and from June 1985 to January 1997. He was eligible for education benefits under the Vietnam-Era GI Bill (Chapter 34) and became eligible to convert to Montgomery GI Bill (MGIB) benefits (Chapter 30). In April 1997, the veteran applied for MGIB benefits and was issued a Certificate of Eligibility incorrectly advising him that his delimiting date was February 1, 2007. Because the veteran had a break in service, 38 U.S.C. § 3031(e)(1) requires that his 10 year eligibility period be reduced by the amount of the break that falls between January 1, 1977 and June 30, 1985. The veteran continued his education during 1997 and 1998, and received at least three letters from VA indicating that his delimiting date was February 1, 2007. In January 2004, the veteran enrolled in a different educational institution after calling the VA toll-free information line to verify that his delimiting date was February 1, 2007. On March 11, 2004 while processing the certification request, VA noticed the error and informed the veteran that his correct delimiting date was June 6, 2003 due to the break in service. The veteran was unable to withdraw from classes at that time, and suffered a financial loss of \$678. The Secretary granted equitable relief under 38 U.S.C. § 503(b) for \$678 to cover the cost of tuition and books for the veteran.

CASE #11

Vocational Rehabilitation and Employment Service (VRE) approved the veteran for the Independent Living Program in May 2003. At that time it was determined that the veteran would not be able to return to work for at least one year or longer because of a mental condition. The veteran was unable to perform more than light work because of the effects of her medication so the veteran requested VRE assist her with lawn care. The veteran was verbally informed that VRE would provide reimbursement for this service for four months. The veteran relied on this assurance and incurred expense for the lawn care in the amount of \$495. The Secretary granted equitable relief under 38 U.S.C. § 503(b) in the amount of \$495.

CASE #12

The veteran filed a second VA Form 21-4502 for adaptive equipment in March 2002, having already received the one-time-only automobile allowance in 1968. The VARO, in response to his adaptive equipment application, told the veteran that he was eligible for an automobile allowance even though the veteran had indicated on the application that he had already received this one-time benefit. In reliance on this determination, the veteran purchased an automobile and submitted the Certificate of Eligibility for reimbursement. The VARO realized its

mistake in November 2003, and denied payment based on his having already received this one-time benefit. The failure of VARO to properly review the claims folder to discover that he had previously received the allowance, resulted in his incurring an unanticipated financial obligation. The Secretary has granted equitable relief in the amount of \$9,000 according to 38 U.S.C. § 503(b) for a second allowance since the veteran incurred a financial obligation in reliance on the VARO's erroneous determination.

CASE #13

The veteran served in the Coast Guard from 1987 to 1995, entitling her to Chapter 30 (Montgomery GI Bill) benefits of 36 months. The veteran was 20 per cent disabled, entitling her to Chapter 31 (Vocational Rehabilitation) benefits, also for 36 months. Eligibility under two or more VA education programs establishes entitlement to an aggregate of 48 months of training. The veteran used 27 months and 2 days of Chapter 30 benefits. She then used 25 months and 28 days of Chapter 31 benefits, resulting in use of an aggregate 53 months of entitlement. The Buffalo NY regional processing office failed to enter the veterans' Chapter 31 training in her Chapter 30 master record, and thus indicated to the veteran that she still had Chapter 30 benefits available. The veteran enrolled in a new program in May 2002, for which she was issued a Certificate of Eligibility in June 2002, showing eligibility for an additional 8 months and 28 days entitlement. The veteran had already incurred student loans for the summer and fall semesters of 2002 when she was notified that she had no further VA educational assistance entitlement. The veteran was notified of the error on August 2, 2002, at which date she could have received a refund of all but \$244 of the fall term's fees. The Secretary granted equitable relief under 38 U.S.C. § 503(b) of \$2,284, which represents the summer tuition payments and the non-refundable fee from the fall semester.

CASE #14

The veteran served in the military from January 1974, to January 1994, and was eligible for 36 months of entitlement under Chapter 30 (MGIB – Montgomery GI Bill) benefits. The veteran began using the Chapter 30 benefits in March 1999. On May 23, 1998, the veteran retained only 12 days of the original 36 months of benefits. In August 2002, the veteran emailed the Buffalo NY regional processing center (RPC) to see if she could have an extension of her 12 days to cover a 24-week massage therapy program. The RPC Education Case Manager incorrectly replied that the benefits could be extended to allow for 24 weeks of payment without ascertaining the name of the school or the type of program being offered. Extensions of entitlement are possible for enrollments in schools regularly operated on a term, quarter, or semester basis. Although the course the veteran was taking was a non-college degree program, the educational institution did operate on a regular quarter system. The veteran received an

extension to cover benefits for the first half of the course (September through December 2002). She was informed in November 2002, in the midst of the first term of a two-term program, that she did not have sufficient entitlement to complete the training. If she had immediately contacted the school at that time, she would have received a refund of half of her spring semester tuition. The Secretary granted equitable relief under 38 U.S.C. § 503(b) for \$1,337.50, an amount sufficient to cover half the veteran's tuition for the spring semester. Since the veteran could have recovered the other half by ending the class, that amount was not granted to the veteran under equitable relief.

CASE #15

The veteran was an ROTC Naval officer from December 1996 to December 2000, when he was honorably discharged. The veteran filed an application for Chapter 30 benefits on April 16, 2001. This application was denied because the application stated that the veteran received his commission as an officer as a result of an ROTC scholarship. Under 10 U.S.C. § 2107, the recipient of an ROTC scholarship is not entitled to benefits if s/he received more than \$2,000 (\$3,400 beginning December 2001) for each year of participation in the scholarship program. The veteran submitted additional evidence to show that he did not receive any scholarship money during his first year of enrollment in ROTC. VA issued a Certificate of Eligibility, and the veteran enrolled in law school. His period of enrollment in school was interrupted because he was called to active duty. He re-enrolled in August 2003 for the fall semester. At that time VA had received a copy of veteran's discharge papers showing that he acknowledged that he was ineligible for benefits because of his ROTC scholarship. The veteran did not have a ROTC scholarship his first year of enrollment so that year could not be used to determine eligibility. VA determined that the Certificate of Eligibility and the award of benefits were erroneous and notified the veteran on October 27, 2003 that his benefits were terminated. The veteran filed for equitable relief to cover the remaining year of law school enrollment. The Secretary granted equitable relief under 38 U.S.C. § 503(b) in the amount of \$3,643.83, the amount that would have been paid the veteran under Chapter 30 benefits for the fall 2003 semester.

CASE #16

The veteran is service-connected with 100% entitlement to special monthly compensation under 38 U.S.C. § 1114(s). As of February 2002, he received \$2,629 a month with an additional \$70 going to his estranged wife. The veteran notified VA that he and his wife had reconciled and were living together. The veteran expected that his March 2002 compensation would increase by \$70 to \$2,699. Instead VA reduced his compensation to \$388. The veteran incurred \$108 in overdraft fees from his bank due to checks he had written based on the expected direct deposit of \$2,699. The veteran also incurred a late fee of \$200 because of his inability to timely pay his rent because of VA's error in reducing

his compensation. The Secretary granted equitable relief under 38 U.S.C. § 503(a) in the amount of \$308 to cover the overdraft and late fees.

CASE #17

The spouse of a veteran was enrolled in CHAMPVA because her husband was totally and permanently disabled. Her CHAMPVA enrollment required that she also maintain Medicare Part B coverage to retain eligibility for benefits. A VAMC employee erroneously advised the spouse that she did not need to participate in Medicare Part B coverage and the spouse discontinued that coverage as of January 1, 1999. This rendered the spouse ineligible for CHAMPVA coverage through July 1, 2002, when she re-enrolled in Medicare Part B. The spouse incurred medical bills of \$3,620.11 during the period of ineligibility of which the CHAMPVA portion is \$2,260.64. The spouse also incurred a penalty of \$1,329.15 for re-enrollment in Medicare Part B. These expenses were incurred as a direct result of the erroneous advice given by the VAMC employee. The Secretary granted equitable relief under 38 U.S.C. § 503(b) in the amount of \$3,589.79, the CHAMPVA portion of the medical expenses and the penalty for re-enrollment in Medicare Part B.

CASE #18

The veteran served in the Army from February 1988 through January 1991, a period of 35 months, 5 days. The veteran was discharged from the service for the convenience of the government. The veteran was required to complete 36 months of service in her 4-year obligation to receive Montgomery GI Bill benefits unless she was discharged with a qualifying separation reason. The veteran's initial application for Chapter 30 benefits was denied due to insufficient service. The veteran appealed indicating that her discharge was for the convenience of the government, a qualifying separation reason. The VA regional processing office (RPO) contacted the Army to determine if the discharge was considered CIWD (Condition Interfered with Duty). The Army replied that the discharge was not CIWD. The RPO question to the Army was limited to CIWD, which is only one of several reasons for a qualifying separation. The veteran's separation was at the convenience of the government and was a qualified separation. The RPO never requested this information. The veteran appealed to the Board of Veterans Appeals in December 1992, and filed additional applications for educational benefits in 1996 and 1998. The 1998 application was approved after the Army confirmed that the separation was at the convenience of the government and qualified for MGIB benefits. The veteran received retroactive benefits from May 1996, the earliest period for which an enrollment certificate was filed. The veteran then requested an extension of her delimiting date of January 2001 (ten years from separation date). The request was denied, and subsequent requests for equitable relief in extending the delimiting date were denied as well. The veteran then requested payment for classes she took in 1994 for which she had not filed certification because the application for MGIB benefits had been wrongly

denied. The Secretary granted equitable relief under 38 U.S.C. § 503(a) in the amount of \$3,485.70, the amount the veteran would have received as MGIB benefits in 1994 if the application had been processed correctly.

CASE #19

The veteran obtained certification for a Specially Adapted Housing grant in 2001. He purchased a newly constructed house in April 2001 which he was to occupy in July 2001. Chronic problems with the builder delayed occupancy of the house until January 2002. During the construction period, the house was inspected on four separate occasions by a VA compliance inspector and was found to be in compliance. From initial occupancy, the veteran experienced problems with the house and requested a post-completion inspection of the house in March 2002. This inspection found serious problems with the house and the compliance inspector who made the construction inspections was suspended and eventually terminated from his position. The veteran believed he needed to take action himself and arranged to have an independent home inspection made in May 2002. This inspection revealed a number of structural and cosmetic problems that the veteran began to have corrected using his own funds. In April 2003, the veteran requested government intervention in correction of his house, having spent over \$20,000 in personal funds to rectify construction defects. The Manchester, NH Regional Office became involved in June 2003, and hired a professional engineer to perform an inspection of the house. The engineer's report of September 2003 identified numerous structural defects that the VA began to repair. On November 7, 2003, the Secretary granted equitable relief under 38 U.S.C. § 503(a) not to exceed \$120,000 for correction of the problems with the house of the veteran. This amount was found to be insufficient for completion of the work, and the Secretary granted additional equitable relief on April 9, 2004, under 38 U.S.C. § 503(a) in the amount of \$2,757.11 to cover interest and additional expenses involved in the corrective construction.

CASE # 20

The veteran has a service-connected injury and was rated totally disabled in July 1972. The rating was not made permanent since the veteran had a future examination appointment scheduled. From 1972 to 1991, the veterans' disability rating was increased and decreased based on his medical examinations. The veteran was not granted permanent disability during this time. On his last exam in December 1993, the veteran was determined to be permanently and totally disabled. A rating decision dated February 15, 1994, was stamped in the veterans' file to reflect his entitlement to Chapter 35 benefits from December 1993. The VA did not notify the veteran of his disability rating status and benefits until October 9, 2001. VA has an affirmative duty to advise a veteran of any changes in disability status and the effect that might have on his benefits. The veterans' entitlement to Chapter 35 benefits as of December 1993 also provided his dependents with eligibility to Dependents' Educational Assistance (DEA)

benefits. The daughter of the veteran filed for DEA benefits on December 13, 2000. Although she was eligible for DEA from December 15, 1993, the date the veteran was declared permanently and totally disabled the daughter had not received notice of this eligibility. Although she had been enrolled in college since September 1996, her DEA benefits could only be awarded back one year prior to the application date. Equitable relief under 38 U.S.C. § 503(a) of \$5,922.21 was granted to the veteran's daughter by the Secretary to cover her college expenses from September 1996 to December 1999, the period for which she had not been notified that she was eligible.

CASE #21

VA determined the veteran was eligible for Specially Adapted Housing (SAH) grant in July 2001. The veteran purchased an existing house in July 2002, and contracted in November 2002, for various modifications necessary to the house under the SAH program. The veteran submitted all SAH grant approval documentation to the Huntington WV Regional Office as of February 4, 2003. The veteran had ascertained that VA gave SAH grant processing a high priority (seven days) and that the decision should be forthcoming shortly. The veteran became gravely ill and passed away on March 3, 2003, at which time neither the SAH grant nor Veterans Mortgage Life Insurance (VMLI) applications had been processed due to an extended family emergency of the one VA employee in the Huntington office. The veterans' death left his widow unable to make the mortgage payments on the house, and without VMLI coverage. Prior to his death, VA had determined that the veteran met qualifications for a SAH grant, and that after the planned adaptations the veterans' house would have met his disability-related needs. The Secretary granted equitable relief under 38 U.S.C. § 503(a) of \$90,000, the amount the veteran would have received if the SAH grant had been processed timely by VA.

CASE #22

The veteran was granted basic eligibility for a Specially Adapted Housing (SAH) grant in October 2002. The veteran contracted with an architectural firm in December 2002, to provide plans for a room addition and modifications to the house for wheelchair accessibility. The veteran signed a construction contract for the addition and the remodeling in May 2003. In July 2003, the VA Service Center revised the veteran's rating indicating that VA had made a clear and unmistakable error and that the veteran was no longer eligible for SAH benefits. The veteran was unwilling to report for a VA examination to determine entitlement to SAH, and the veteran's personal physician failed to respond to VA's request for medical information within the 60-day period allowed, resulting in a rating decision in January 2004, that severed entitlement to SAH. The veteran in the meantime had contacted his local newspaper and his Congressman about the expenses he had incurred in planning the house adaptation based on VA's initial approval of the SAH grant. The Secretary

granted equitable relief under 38 U.S.C. § 503(b) of \$11,270. This amount includes expenses the veteran incurred obtaining architectural planning services and preliminary construction-related obligations, and revisions to previously approved architectural plans.

CASE #23

In October 2001, a VA case manager informed the veteran that he would receive the difference between the apprentice hourly wage and the journey person hourly wage while training in a Chapter 31 vocational rehabilitation apprentice program. The VA case manager neglected to inform the veteran of the limitation that the payment be no more than the subsistence allowance for an apprentice program. The veteran acted on this information in June 2002, when he resigned from a position as a cable technician paying \$25.76 per hour (over \$53,000 per annum). The veteran entered the Chapter 31 program on July 1, 2002, earning a starting apprentice wage of \$10.05. The journey person hourly rate at that time was \$33.48, making the amount the veteran would expect as the difference between these two wages as \$23.43 per hour. The veteran could expect to work 173.33 hours per month in the apprentice program, resulting in a monthly difference of \$4,061.12 ($\23.43×173.33) between the apprentice and the journey person wages. The first subsistence check from VA amounted to \$581.73 instead of \$4,061.12, a shortfall of \$3,479.39. The veteran contacted VA and determined that the case manager had incorrectly informed him of his monthly subsistence payment under Chapter 31 benefits. The veteran filed a claim for damages in August 2002, for \$51,717.96, the total difference between the journey person and apprentice rates less the actual VA subsistence computed through December 2003. This establishes the maximum amount that VA could pay on the veteran's claim. The Secretary granted equitable relief under 38 U.S.C. § 503(b) of \$48,685.47, charged to the Readjustment Benefits Appropriation. This amount represented eighteen months accumulation of the difference between the apprentice and journey person wages minus the actual payments received from VA under Chapter 31, further reduced by 15% to account for the tax-free nature of the equitable relief payment as opposed to regular VA payments. The computed monthly amounts reflect the changes in the veteran's actual apprentice wages and the changes in the VA subsistence payment rates.

CASE #24

The veteran served in the Air Force from September 1983, to October 1991, which entitled him to participate in the Veterans Educational Assistance Program. Public Law 102-484 was enacted on October 23, 1992, one week before the veteran separated from the service. This law created two new categories of Montgomery G.I. Bill (MGIB) benefits based on the veterans' separation date. This veteran was eligible to elect MGIB IIB (for separations after October 23, 1992) benefits by paying \$1200 prior to separation from the service. The veteran was not advised of the availability of the MGIB IIB benefits before separation

because the Air Force did not fully understand the instructions concerning implementation of the law. The veteran was not advised of his eligibility for MGIB IIB benefits until October 30, 1998. The veteran submitted an application to VA for MGIB benefits on November 23, 1998, and began receiving benefits effective January 5, 1999. The veteran is limited in receiving benefits to ten years from the date of separation from the service, or October 30, 2002. Since the veteran was not notified of his eligibility by the Air Force until six years after his discharge, the veteran will have lost six years of eligibility. The Secretary granted equitable relief under 38 U.S.C. § 503(a) to extend the veterans' eligibility period for MGIB benefits to October 30, 2008.

CASE #25

The veteran served in the Navy from November 9, 1992, through October 7, 1994 and received an honorable discharge early at the convenience of the government. The period of service for the veteran was 22 months, insufficient for Chapter 30 educational benefits. The veteran filed an electronic application for benefits in May 2002, and was informally denied in June 2002. VA requested in June 2002, that the veteran submit a copy of her discharge papers and verify her signature on the electronic document. VA received this information in July 2002, processed the papers, and erroneously issued a Certificate of Eligibility. The veteran enrolled in courses in the August 2002, the first portion of a 21-month program of study. VA determined that the veteran was not eligible after it received the Enrollment Certification for the courses. On September 11, 2002, VA issued a letter informing the veteran she was not eligible for Chapter 30 benefits. The veteran would have had to drop her classes by August 23, 2002, in order to receive a full refund of her tuition and fees. The veteran had actual expenses of \$5,215.35 for the fall semester, comprised of tuition and books (\$1,455.35), transportation expenses (\$1,600), childcare expenses (\$1,360), and clinical professional clothing (\$800). The amount payable to the veteran, if she had been eligible for Chapter 30 benefits, would have been \$3,123.33, less than the actual out-of-pocket expenses. The Secretary granted equitable relief under 38 U.S.C. § 503(b) in the amount of \$3,123.33.